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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

IN RE: 23ANDME, INC. CUSTOMER DATA  
SECURITY BREACH LITIGATION

Case No. 3:24-md-3098-EMC

**RESPONSE OF THE RVC GROUP  
IN RESPONSE TO  
CASE MANAGEMENT ORDER NO. 1  
AND SUGGESTION OF  
RANDALL WULFF  
FOR APPOINTMENT AS SPECIAL  
SETTLEMENT MASTER**

Michael R. Reese of Reese LLP, Laura Van Note of Cole & Van Note, and Ryan J. Clarkson of Clarkson Law Firm, P.C. (collectively, the “RVC Group”) hereby provide the following response to Case Management Order No. 1 inviting a suggestion for a special settlement master.

For the reasons stated below, the RVC Group recommends that Randall Wulff, Esq. be appointed as the special settlement master. Not only is Mr. Wulff an esteemed mediator with a decades-long track record of success helping parties overcome difficult hurdles to settlement in complex class actions, but Mr. Wulff has already conducted two in-person mediations in this matter, resulting in considerable progress being made toward settlement.

Furthermore, undersigned counsel spoke with Mr. Wulff via telephone on May 13, 2024 regarding the role of the special settlement master, and Mr. Wulff stated during the call that he would welcome the opportunity to serve as the special settlement master as it would allow him to continue in his role as a neutral mediator and hopefully finish the considerable work he has already committed to bringing this matter to resolution.

## **ARGUMENT**

### **A. Randall Wulff is a Highly Esteemed Mediator**

Mr. Wulff has been a full-time neutral since 1994 and has mediated thousands of matters. Prior to becoming a mediator, Mr. Wulff was a trial lawyer with Farella Braun & Martel LLP in San Francisco for 20 years, specializing in complex commercial, construction, intellectual property, securities, insurance coverage, real estate and employment litigation, representing both plaintiffs and defendants. Mr. Wulff received his J.D. from the University of California, Hastings College of the Law, in 1974, where he achieved the academic honors of the Order of the Coif. In 1974, he then served as Hastings’ first extern for the Chief Justice of the California Supreme Court, and also worked on the editorial staff of the Hastings Law Journal. In addition to his active trial practice at Farella, he was also an adjunct professor at Hastings, having taught courses in “Trial Evidence” and “Complex Litigation.” Mr. Wulff has tried cases in federal and state courts. He successfully settled roughly 100 cases for his clients as an advocate in mediations or mini-trials.

1 Because of this extensive experience, Mr. Wulff has been selected as a mediator in over two  
 2 thousand cases across a spectrum of practice areas, settling the vast majority of those cases. They  
 3 have ranged from two-party cases to suits involving more than one hundred parties.

4 For example, Mr. Wulff successfully mediated the \$2.75 billion agreement between  
 5 Discover, Mastercard and Visa. He also mediated the \$1.1 billion class action settlement of the  
 6 Microsoft antitrust claims in California.

7 In 2004, after a nationwide search for several months, Mr. Wulff was selected by the Chief  
 8 Judge in the Southern District of New York to lead the panel that heard and decided the property  
 9 damage claims for the World Trade Center arising from the tragedy on September 11. This included  
 10 reconstruction costs as well as business interruption claims. These insurance claims were roughly  
 11 four times larger than any other in the history of the industry.

12 Mr. Wulff is co-editor of two books, the Alternative Dispute Resolution Practice Guide  
 13 (West Group 1993-2003), as well as a second book devoted specifically to ADR for the construction  
 14 industry, both being marketed nationally. He has also published numerous articles on alternative  
 15 dispute resolution (“ADR”), and contributed the chapter on “Mediation” to the nationally distributed  
 16 ADR Handbook.

17 Mr. Wulff has spoken on mediation at numerous national and international conferences. The  
 18 Mediation Society selected Mr. Wulff in 2004 as its “Mediator of the Year.” Mr. Wulff received the  
 19 American Arbitration Association’s 1990 Award as its outstanding mediator in Northern California.  
 20 He is regularly selected among the “top” mediators in polls done periodically by the legal  
 21 newspapers, *The Recorder* and the *Daily Journal*. Mr. Wulff regularly appears in each annual  
 22 selection of SuperLawyers and Best Lawyers in America. Mr. Wulff was selected the ADR Lawyer  
 23 of the Year from Oakland in the Best Lawyers 2011 edition.

24 For more information on Mr. Wulff, please see [wqsadr.com/about/randall-wulff/](http://wqsadr.com/about/randall-wulff/).

25 Mr. Wulff can be reached at either 510-663-5222 or [rwulff@wqsadr.com](mailto:rwulff@wqsadr.com).

**B. Appointment of Mr. Wulff as the Special Settlement Master Will Allow the Class to Benefit from Mr. Wulff's Substantial Work as the Mediator in this Matter**

Mr. Wulff already has conducted two full day, in-person mediations in this matter with undersigned counsel (along with additional plaintiffs' counsel – all of whom were invited to attend the first full day of mediation); defense counsel; a representative from the insurance carrier; and several executives of defendant 23andMe, Inc. These mediation sessions were highly involved and included, among other things, the production of confidential information; the exchange of privileged mediation statements; and interviews of several of defendant 23andMe, Inc.'s executives. After conclusion of the second day of mediation, Mr. Wulff has remained committed to brokering a resolution of this matter, including, but not limited to, several phone calls with undersigned counsel.

The mediation sessions (and subsequent communications discussed above) led by Mr. Wulff were highly productive resulting in several rounds of demands and offers, with significant progress being made towards a proposed class-wide resolution that would be presented to the Court for its consideration. If Mr. Wulff is allowed to continue in his role as mediator as the court-appointed special settlement master, he is more likely than not to assist the parties in overcoming the final barriers to settlement and bring this complex matter to an early resolution.

**CONCLUSION**

The RVC Group recommends Randall Wulff's appointment as Special Settlement Master.

Date: May 20, 2024

Respectfully submitted,

**REESE LLP**

/s/ Michael R. Reese

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